

EDITORIAL

Efficiency of NAB: Some Observations and Policy Suggestions

Corruption is a parasite that mercilessly sucks a nation's blood. The end result of corruption is weakening of state institutions and a moral crisis in the society. Pakistan is also facing the problem of corruption. It was ranked 126 by Corruption Perception Index as claimed by Transparency International. This means a high level of corruption. Countries around the world have adopted numerous measures to counter corruption. Pakistan, besides other law-enforcement agencies, established a special body, the National Accountability Bureau (NAB) in 1999 (by Gen. Musharraf) to fight against corruption and corrupt practices. Since then, NAB has made significant progress and adopted "effective measure(s) for the detection, investigation, prosecution of cases involving corruption, misuse/abuse of power, misappropriation of property, kickbacks, commissions [and other such practices]". It is one of the efficient departments of Pakistan. Its officers are properly trained in their investigative duties. It is one of the few departments that remained, for the most part, unaffected by political interference. Initially, and to a large part now, NAB is run by military officers.

Despite all claims of anti-corruption drive by NAB, there are many voices against some of its intrinsic weaknesses, though some object to the very existence and spirit of NAB laws. A few of these critical views are discussed as under:-

1. Section (2) of the NAB Ordinance states that it shall come into effect since the first day of 1985. The critics argue that why not to make it effective since 1947 when in the initial days the elites and power holders made significant corruptions, even leading to the separation of East Pakistan. Before 1985, the elites and feudal class families occupied the higher bureaucracy and who mostly catered for expansion into their family businesses and securing their land-holdings. The Ordinance is questioned for being biased towards the bureaucrats who belong to the middle class family background and who entered into service after 1985.

2. There is no time limit prescribed for enquiries initiated by NAB. Once NAB initiates an inquiry against an individual, there is no time limit that in how much time, the said inquiry shall be concluded. An officer can remain under-enquiry for the whole life or for the prime time of his service. During the time of enquiry, the officers are highly under stress and badly stigmatized and suffer in their service-career and promotion. A time limit is indeed needed to ensure fair-play, justice and due process of law. Though legally the inquiring of NAB is not a bar to promotion, yet officers are targeted on the same point if so desired.
3. It is also stated by many that NAB is highly efficient when it comes to dealing with individual officials cases. However, NAB has made no significant contribution when it comes to Mega Scandal Cases. For example, Karachi Steel Mills case, Privatization of PTCL, NLC, Arms Scandal in KP Police, etc. Looking at this trend in NAB, some criticize that NAB has been used in the past by Gen. Musharraf to harass his political rivals which is a 'norm' in every primitive and backward society where the military take over is followed by strict actions against the non-conformists.

4. Article 23 of the NAB Ordinance states

"Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated investigation into the offences under this Ordinance, alleged to have been committed by an accused person, such person or any relative or associate of such person or any other person on his behalf, shall not transfer by any means whatsoever, create a charge on any movable or immovable property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the NAB or the Accountability Court; and any transfer of any right, title or interest or creation of a charge on such property shall be void"

As per this article, when an enquiry is initiated against an accused person, he/she is forbidden to sell his/her property. He/she cannot

transfer his /her property by any means whatsoever. It is not only limited to the property that the accused has made during his/her life time. Even inherited property cannot be sold by the spouse once an inquiry is authorized. Some consider it against the basic human rights and the family of the accused may suffer irreparably for having no resources for the education, treatment or social requirements of the family and their children. One might need to sell his /her property, at least the inherited property, that has Zero Value in the Wealth Returns. However, the law forbids the selling of any property during an enquiry. The enquiry, as mentioned earlier, might take years to conclude, as it has no time limit. Moreover, the Article mentions in the first lines the term authorization of ‘investigation’ by the Chairman NAB which is the second stage, whereas towards the end of the Article, the ‘inquiry’ stage is also made a bar to disposal of any kind of property which is the initial stage and the charges are not established during that phase of the proceedings.

5. Upon successful recovery, NAB officials are given a fixed share of the return of the assets or gains acquired through corruption by the corrupt individuals. Some argue that due to this share in recoveries, NAB officials sometimes use extra judicial tactics (or harassment, as dubbed by many) to compel the accused for Voluntary Return. An apex court of Pakistan has restrained the NAB authorities not to harass the petitioners (Daily DAWN, 2015, Dec 15). *“The chief justice [of Peshawar High Court] observed that NABN had the power to conduct inquiry and investigation against people but it should also ensure that nobody should be defamed in the name of inquiry. He observed that the NAB should avoid summoning the people unnecessarily and if it needed any record, then instead of summoning officials, it should ask for the said record,”* the newspaper reported. This is the general impression that some NAB authorities harass individuals in order to ensure recoveries. The NAB authorities however deny any such allegations. Some think it a ‘counter attack’ on NAB by the corrupt individuals and politicians

who are under probe by NAB authorities for their alleged malpractices. Some demand that the matter needs some kind of public oversight on the proceedings of NAB investigations.

Social policy is a continuous process of hit and trial method. There is always a room for improvement. Time is the most significant factor that always creates room for improvement. NAB, indeed, was and is highly efficient and public appreciates where 'big-shots' are subjected to inquiries and recoveries. The public support to the NAB actions was observed during the Anti-Corruption Awareness Week (2015, Dec 9-12) throughout the country and especially in KP where the NAB, KP has performed excellently in the last 20 months. However, the above flaws in NAB laws need the attention of policy makers so that NAB can be made a model institution for other countries to follow.

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